

Joseph R. Saveri (SBN 130064)
Daniel E. Barenbaum (SBN 209261)
LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP
275 Battery Street, 30th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000

Merrill G. Davidoff (Admitted *Pro Hac Vice*)
Bart D. Cohen (Admitted *Pro Hac Vice*)
Michael J. Kane (Admitted *Pro Hac Vice*)
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, PA 19103
Telephone: (215) 875-3000

Co-Lead Counsel for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**In re ATM FEE ANTITRUST
LITIGATION**

Master File No. C04-2676 CRB

CLASS ACTION

**DECLARATION OF JOSEPH R. SAVERI IN
SUPPORT OF MOTION TO COMPEL ALL
DEFENDANTS TO PROVIDE DOCUMENTS
RELEVANT TO PLAINTIFFS' FOURTH SET
OF REQUESTS FOR PRODUCTION OF
DOCUMENTS**

This Document Relates To:
ALL ACTIONS

Date: May 17, 2007
Time: 2:00 p.m.
Courtroom: 8
The Honorable Charles R. Breyer

1 I, Joseph R. Saveri, declare as follows:

2 1. I am a partner at the law firm of Lieff, Cabraser, Heimann & Bernstein,
3 LLP ("LCHB"), and a member in good standing of the State Bar of California and the State Bar
4 of New York. I submit this declaration in support of Plaintiffs' Motion To Compel All
5 Defendants To Provide Documents Relevant To Plaintiffs' Fourth Set Of Requests For
6 Production Of Documents. I have personal knowledge of the matters set forth herein, and could
7 and would testify competently thereto if called upon to do so.

8 2. On January 8, 2007, Plaintiffs served (a) Plaintiffs' Fourth Set of Requests
9 For Production of Documents to Bank Defendants and (b) Plaintiffs' Fourth Set of Requests For
10 Production of Documents to Concord EFS, Inc. and First Data Corporation. Defendants'
11 objections/responses were due on February 13, 2007.

12 3. Because of the importance and time-sensitive nature of the discovery
13 requests at issue, Plaintiffs worked prior to receiving objections/responses to schedule
14 comprehensive in-person meet-and-confer conferences to discuss issues that may have been in
15 dispute. Group meetings were initially scheduled. The initial meeting took place on February 14,
16 2007, the day after responses were served. Those meetings were followed by individual
17 defendant-by-defendant meetings. A number of letters memorialize the efforts to set group
18 meetings.

19 a. Attached hereto as Exhibit A is a true and correct copy of a
20 January 8, 2007 letter from Joseph Saveri and Bart Cohen to Brian Wallach.

21 b. Attached hereto as Exhibit B is a true and correct copy of a
22 January 17, 2007 letter from Brian Wallach to Joseph Saveri and Bart Cohen.

23 c. Attached hereto as Exhibit C is a true and correct copy of a
24 February 2, 2007 letter from Rachel Jones to Joseph Saveri.

25 d. Attached hereto as Exhibit D is a true and correct copy of a
26 February 7, 2007 letter from Bart Cohen to Rachel Jones.

27 e. Attached hereto as Exhibit E is a true and correct copy of a
28 February 9, 2007 letter from Rachel Jones to Bart Cohen.

1 f. Attached hereto as Exhibit F is a true and correct copy of a
2 February 12, 2007 letter from Bart Cohen to Rachel Jones.

3 g. Attached hereto as Exhibit G is a true and correct copy of a
4 February 12, 2007 letter from Bart Cohen to Brian Wallach.

5 h. Attached hereto as Exhibit H is a true and correct copy of a
6 February 13, 2007 letter from Rachel Jones to Bart Cohen.

7 i. Attached hereto as Exhibit I is a true and correct copy of a
8 February 14, 2007 letter from Brian Wallach to Bart Cohen.

9 4. The parties engaged in three joint in-person conferences, which occurred
10 on February 14, 21, and 26, 2007. Altogether, these meetings constituted over 10 hours of in-
11 person discussions. A number of letters memorialize the disputes that arose out of those
12 meetings, as well as the issues that were resolved.

13 a. Attached hereto as Exhibit J is a true and correct copy of a
14 February 16, 2007 letter from Joseph Saveri and Bart Cohen to All Defense Counsel.

15 b. Attached hereto as Exhibit K is a true and correct copy of a
16 February 23, 2007 letter from Rachel Jones to Joseph Saveri and Bart Cohen.

17 c. Attached hereto as Exhibit L is a true and correct copy of a
18 February 28, 2007 letter from Joseph Saveri to Bank Defendants' Counsel.

19 d. Attached hereto as Exhibit M is a true and correct copy of a
20 February 28, 2007 letter from Joseph Saveri to Brian Wallach and Brian Howie.

21 e. Attached hereto as Exhibit N is a true and correct copy of a
22 March 15, 2007 letter from Joseph Saveri and Bart Cohen to All Defense Counsel.

23 f. Attached hereto as Exhibit O is a true and correct copy of a
24 March 29, 2007 letter from Rachel Jones to Joseph Saveri and Bart Cohen.

25 g. Attached hereto as Exhibit P is a true and correct copy of an
26 April 5, 2007 letter from Bart Cohen and Joseph Saveri to Counsel for Bank Defendants.

27 h. Attached hereto as Exhibit Q is a true and correct copy of an
28 April 6, 2007 letter from Bart Cohen and Joseph Saveri to Counsel for Bank Defendants.

1 5. After the group meetings, Plaintiffs then separately conducted extensive
 2 meet-and-confer sessions via conference call with each of the individual defendants.

3 6. Plaintiffs conferred with Defendants Concord EFS, Inc. and First Data
 4 Corporation on March 16, 28, and 30, 2007, and April 4, 2007. Several letters memorialize the
 5 disputes that arose out of those meetings, as well as the issues that were resolved.

6 a. Attached hereto as Exhibit R is a true and correct copy of a
 7 March 29, 2007 letter from Brian Howie to Joseph Saveri and Bart Cohen.

8 b. Attached hereto as Exhibit S is a true and correct copy of an
 9 April 5, 2007 letter from Joseph Saveri to Brian Wallach and Brian Howie.

10 c. Attached hereto as Exhibit T is a true and correct copy of an
 11 April 6, 2007 letter from Brian Wallach to Joseph Saveri.

12 d. Attached hereto as Exhibit U is a true and correct copy of an
 13 April 6, 2007 letter from Brian Wallach to Joseph Saveri.

14 e. Attached hereto as Exhibit V is a true and correct copy of April 6,
 15 2007 e-mail from Christina Fahmy to Bart Cohen, Michael Kane and Joseph Saveri, attaching a
 16 true and correct copy of an April 6, 2007 letter from Brian Howie to Joseph Saveri and Michael
 17 Kane. The e-mail was received at 4:44 p.m. PST.

18 7. Plaintiffs conferred with Defendant Citibank on March 22 and 29, 2007.
 19 Several letters memorialize the disputes that arose out of those meetings, as well as the issues
 20 resolved.

21 a. Attached hereto as Exhibit W is a true and correct copy of a
 22 February 23, 2007 letter (without attachments) from Eric Lyttle to Joseph Saveri and Bart Cohen.

23 b. Attached hereto as Exhibit X is a true and correct copy of an
 24 April 6, 2007 letter from Bart Cohen and Joseph Saveri to Eric Lyttle.

25 c. Attached hereto as Exhibit Y is a true and correct copy of an April
 26 6, 2007 e-mail from Jeff White to Joseph Saveri, Michael Kane, and Bart Cohen, attaching a true
 27 and correct copy of an April 6, 2007 letter from Eric Lyttle to Joseph Saveri and Bart Cohen. The
 28 e-mail was received at 2:02 p.m. PST.

1 8. Plaintiffs conferred with Defendant JPMorgan Chase Bank on March 15,
2 2007 and April 5, 2007. Two letters memorialize the disputes that arose out of those meetings, as
3 well as the issues that were resolved.

4 a. Attached hereto as Exhibit Z is a true and correct copy of a
5 March 7, 2007 letter from Gregory Koltun to Joseph Saveri.

6 b. Attached hereto as Exhibit AA is a true and correct copy of an
7 April 6, 2007 letter from Bart Cohen and Joseph Saveri to Gregory Koltun.

8 9. Plaintiffs conferred with Defendant Bank of America Corporation on
9 March 19, 2007 and April 3, 2007. Several letters memorialize the disputes that arose out of
10 those meetings, as well as the issues that were resolved.

11 a. Attached hereto as Exhibit BB is a true and correct copy of an
12 April 2, 2007 letter from Tara Steeley to Bart Cohen.

13 b. Attached hereto as Exhibit CC is a true and correct copy of an
14 April 4, 2007 letter from Tara Steeley to Bart Cohen and Michael Kane.

15 c. Attached hereto as Exhibit DD is a true and correct copy of an
16 April 5, 2007 letter from Tara Steeley to Bart Cohen and Michael Kane.

17 d. Attached hereto as Exhibit EE is a true and correct copy of an
18 April 5, 2007 letter from Michael Kane and Joseph Saveri to Tara Steeley.

19 e. Attached hereto as Exhibit FF is a true and correct copy of an
20 April 6, 2007 e-mail from Tara Steeley to Bart Cohen, Michael Kane, and Joseph Saveri,
21 attaching a true and correct copy of an April 6, 2007 letter from Tara Steeley to Joseph Saveri and
22 Michael Kane. The e-mail was received at 4:03 p.m. PST.

23 f. Attached hereto as Exhibit GG is a true and correct copy of an April
24 13, 2007 letter from Michael Kane to Tara Steeley.

25 g. Attached hereto as Exhibit HH is a true and correct copy of an April
26 13, 2007 letter from Tara Steeley to Michael Kane.

1 10. Plaintiffs conferred with Defendant Wachovia on March 20 and 27, 2007
 2 and April 3, 2007. Two letters memorialize the disputes that arose out of those meetings, as well
 3 as the issues that were resolved.

4 a. Attached hereto as Exhibit II is a true and correct copy of a
 5 March 12, 2007 letter from Joseph Saveri to Kirsten Daru.

6 b. Attached hereto as Exhibit JJ is a true and correct copy of an
 7 April 6, 2007 letter from Bart Cohen and Joseph Saveri to Kirsten Daru.

8 11. Plaintiffs conferred with Defendant SunTrust on April 4 and 5, 2007.
 9 Several letters and e-mails memorialize the disputes that arose out of those meetings, as well as
 10 the issues that were resolved.

11 a. Attached hereto as Exhibit KK is a true and correct copy of a
 12 February 21, 2007 letter from Joseph Saveri to Rachel Jones.

13 b. Attached hereto as Exhibit LL is a true and correct copy of a
 14 March 12, 2007 letter from Joseph Saveri to Rachel Jones.

15 c. Attached hereto as Exhibit MM is a true and correct copy of an
 16 April 4, 2007 e-mail (without attachments) from Rachel Jones to Michael Kane.

17 d. Attached hereto as Exhibit NN is a true and correct copy of an
 18 April 4, 2007 letter from Rachel Jones to Michael Kane.

19 e. Attached hereto as Exhibit OO is a true and correct copy of an
 20 April 4, 2007 letter from Rachel Jones to Michael Kane.

21 f. Attached hereto as Exhibit PP is a true and correct copy of an
 22 April 5, 2007 e-mail from Rachel Jones to Michael Kane, Joseph Saveri, Bart Cohen, Laura
 23 Gleason, and Hector Geribon, attaching a true and correct copy of an April 5, 2007 letter from
 24 Rachel Jones to Michael Kane and Joseph Saveri.

25 g. Attached hereto as Exhibit QQ is a true and correct copy of an
 26 April 6, 2007 e-mail from Rachel Jones to Michael Kane, Joseph Saveri, Hector Geribon, Laura
 27 Gleason, and Bart Cohen, attaching a true and correct copy of an April 6, 2007 letter from Rachel
 28 Jones to Michael Kane and Joseph Saveri. The e-mail was received at 9:24 p.m. PST.

1 12. Plaintiffs conferred with Defendant Wells Fargo on March 19, 2007, and
 2 April 2 and 5, 2007. Several letters memorialize the disputes that arose out of those meetings, as
 3 well as the issues that were resolved.

4 a. Attached hereto as Exhibit RR is a true and correct copy of a
 5 March 12, 2007 letter from Joseph Saveri to Joshua Holian.

6 b. Attached hereto as Exhibit SS is a true and correct copy of an
 7 April 6, 2007 letter from Bart Cohen and Joseph Saveri to Joshua Holian.

8 c. Attached hereto as Exhibit TT is a true and correct copy of an
 9 April 6, 2007 e-mail from Joshua Holian to Bart Cohen, Michael Kane, and Joseph Saveri,
 10 attaching a true and correct copy of an April 6, 2007 letter from Joshua Holian to Michael Kane,
 11 Bart Cohen, and Joseph Saveri. The e-mail was received at 4:04 p.m. PST.

12 13. A distinct discovery-related dispute between the parties relates to whether
 13 the defendants have an obligation—as Plaintiffs maintain that they do—to produce native-format
 14 versions of documents recently collected for production.

15 a. Attached hereto as Exhibit UU is a true and correct copy of a
 16 February 2, 2007 letter from Joseph Saveri to Brian Wallach.

17 b. Attached hereto as Exhibit VV is a true and correct copy of a
 18 February 2, 2007 letter from Joseph Saveri to Bank Defendants’ Counsel.

19 c. Attached hereto as Exhibit WW is a true and correct copy of a
 20 February 6, 2007 letter from Eric Lyttle to Joseph Saveri.

21 d. Attached hereto as Exhibit XX is a true and correct copy of a
 22 February 14, 2007 letter from Michael Kane to Eric Lyttle.

23 e. Exhibit J, supra—a comprehensive meet-and-confer letter—
 24 communicated Plaintiffs’ responsive position on the issue.

25 f. Attached hereto as Exhibit YY is a true and correct copy of a
 26 February 19, 2007 letter from Eric Lyttle to Michael Kane.

14. Attached hereto as Exhibit ZZ is a true and correct copy of the following page from First Data Corporation’s Star Network Website: “What the STAR® Network Means to You” (2007), available at http://www.star.com/what_the_star_network_means_to_you.aspx.

15. Attached hereto as Exhibit AAA is a true and correct copy of United States Supreme Court, Order adopting Amendments to the Federal Rules of Civil Procedure dated April 12, 2006, <http://www.supremecourtus.gov/orders/courtorders/frcv06p.pdf>.

16. Attached hereto as Exhibit BBB is a true and correct copy of excerpted pages from 2 Donald I. Baker, Roland E. Brandel, and James H. Pannabecker, THE LAW OF ELECTRONIC FUND TRANSFER SYSTEMS, "Retail Banking Competition, Card Products and Systems" Ch. 24 (2006).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 17th day of April, 2007 at San Francisco, California.

/s/ Joseph R. Saveri
Joseph R. Saveri